IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

WP(C).No. 31134 of 2006(F)

PETITIONER:

C.SHARAFUDHEEN, S/O.BEERAN KUTTY,
CHEENIKKAL HOUSE, MUTHOOR, TIRUR,
MALAPPURAM.

BY ADV. SRI.A.K.ABDUL AZEEZ

RESPONDENTS:

---

1. THE REGIONAL TRANSPORT AUTHORITY,
MALAPPURAM, REP BY ITS SECRETARY.

2. THE SECRETARY, RTA, MALAPPURAM.

BY GOVERNMENT PLEADER SRI.M.A.FAYAZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).NO.31134 OF 2006-F

Dated this the 27th day of November, 2006

JUDGMENT

The petitioner is the registered owner of the vehicle KL-10F 9000, operating on the route Kozhikode Corporatioin Bus Stand-Ernakulam South Bus Stand, as Limited Stop Fast Passenger service. Originally, the permit was granted for 5 years from 15-12-1992 to 14-12-1997. It was renewed for a further period of 5 years from 15-12-1997 to 14-12-2002 and again for another 5 years from 15-12-2002 to 14-12-2007. Ext.P3 is the endorsement regarding renewal of the permit. In the said endorsement, the Secretary, R.T.A. Malappuram has recorded that the vehicle should be replaced on obtaining of 15 years of age, in view of the interim order in W.A.No.553/2005. For renewal of the permit, the R.T.A. Malappuram has granted concurrence as evident from Ext.P3. Pending issuance of the renewed permit, the petitioner applied for temporary permit, by submitting Ext.P5 application. The said application was considered and rejected by the Secretary, R.T.A., by Ext.P7 decision dated 28-9-2006. The petitioner appealed. The State

Transport Appellate Tribunal dismissed the appeal by Ext.P9 judgment, in view of Rule 260 (A) of the Motor Vehicles Rule which says that the stage carriage older than 5 years cannot be operated as Fast Passenger Service. This writ petition is filed, seeking the following reliefs:

> *"i). Issue a Writ of Mandamus or any other appropriate Writ Order or direction directing the respondents to allow the petitioner operating the service on the route Kozhikkode Corporation bus stand to Ernakulam south bus stand as L.S.F.P. vehicle No.KL 10 F 9000 till the expiry of the condition imposed in Exhibit P3.*
>
> *ii). Declare that the Rule 260 (a) of the Motor Vehicles Rule is ultra vires, and the Rule may be struck down."*

2. In view of Exts. P7 and P9 the first relief cannot be granted. The second relief also cannot be granted as the petitioner does not have pleaded anything against Rule 260 (A) of the Motor Vehicles Rule in the statement of facts or in the grounds.

In view of the above position, the writ petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,JUDGE.

MS